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PORNOGRAPHY

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PORNOGRAPHY*

ISSUE DEFINITION

Sexually explicit material, or "pornography," is not a new phenomenon. It has existed in some form in virtually every society throughout history. It is clear, however, that in Canada today more of such material is available than ever before, and it is more explicit, and more violent, than in the past.

Traditionally, society's response to sexually explicit material has been to prohibit or restrict what is beyond the community's level of tolerance. The implicit rationale of this approach is that pornography may be forbidden because it offends a common standard of taste. Not only is pornography considered immoral insofar as it expresses an ideology and view of the sexes and their relationship that is repugnant, but it is also argued that pornography causes actual harm. Thus, many consider it an appropriate matter for increased use of the regulatory and coercive powers of the state.

On the other hand, there are those who contend that there is no convincing evidence of any causal relationship between pornography and actual physical harm, and that any other effects are too attenuated or insignificant to justify the infringement of the constitutionally guaranteed freedom of expression. This review will attempt to give a survey of this debate.

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* This paper is based on work originally done by Donald MacDonald.

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BACKGROUND AND ANALYSIS

A. "Pornography" and Harm

A great deal of the difficulty in discussing pornography results from confusion or lack of agreement over what is meant by the term. The criminal law does not use the word "pornography" but rather "obscenity." Pornography is an extremely emotive word, whose scope can vary with the outlook of the person using it. Some use it to refer to any material which has sex as a dominant characteristic. Others would restrict it to material which is extremely explicit, or in which sex involves violence.

What is objectionable to many is not sexual content *per se*, or "erotica," which depicts consensual sexual activity, but material in which one or more participants are demeaned, degraded or abused in some manner. Pornography, according to this view, can be viewed as condoning or encouraging sexual debasement. Such a distinction cuts across conventional definitions because very explicit sexual depictions can be described as "erotica," while sexual material with relatively unexplicit but demeaning content can be called "pornography."

The elasticity of the word also contributes to society's difficulty in determining the prevalence of pornography. It is clear, however, that it is more available, and certainly more explicit, than in the past. Police estimates have placed the annual Canadian market in "pornography" at $300 million, although the scope of the term as they use it is not clear. It has also been suggested that community standards have changed to the point where 30% of all Canadian newsstand sales now consist of periodicals that would have been illegal 20 years ago. Furthermore, in recent years a whole new videocassette market has developed. In 1983, police in metropolitan areas of the country seized several thousand videocassettes alleged to be obscene; in a four-month period in Toronto, 1,000 tapes were seized, with an estimated value of $730,000, and in respect of which 90 charges were laid.

Notwithstanding the uncertainties of definition, many believe that material which depicts violence towards, or demeans (in the

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usual case) women - is demonstrably harmful and should be controlled. There is, however, considerable divergence on the appropriate strategy. Harm is said to flow from pornography in two ways. First, it is theorized that there is a direct causal link between violent pornography and violence against women, so that such material can act as a "trigger" to aggression. Second, it is said that pornography contributes in a general way to myths about sexuality and about women which ultimately make violence and degradation more acceptable to society as a whole. According to this view, distinctions among types of pornography are invidious. Such material constitutes a continuum: consumers are desensitized or "numbed" by "soft" pornography, the wide distribution of which makes the allegedly more directly harmful "hard" pornography easier to accept and, indeed, encourages its production.

It is, however, difficult to find "objective" proof of the harmful effects of pornography. Three potential sources of such proof are available. There is, first, "anecdotal" evidence; that is, police or press reports may say that a sex offender was a habitual consumer of explicit material, or victims may claim that their assailant had been influenced by pornography. Second, there is "statistical" evidence, which attempts to show a correlation between the prevalence of pornography and the incidence of violent crime. Third is "experimental" evidence, accounts of experiments which attempt to measure the reactions of individuals to the stimulus of pornography, in particular, aggressive or violent material.

Anecdotal and statistical evidence suffer from the defect of being unable to establish a causal link between pornography and violence. The presence of such material may be merely symptomatic of anti-social behaviour, rather than its cause. Indeed, some research has purported to show that many rapists report having had little exposure to pornographic material. As for statistical evidence, rates of sexual assault have increased, but not significantly more than those of other forms of crime. In any event, establishing a statistical link of this sort is extremely problematic.

Experimental studies can lay claim to being the likeliest source of a proven link between violence and pornography, and, indeed, some

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work has shown that, under laboratory conditions, there may be a measurable relationship between aggressive behaviour and exposure to aggressive pornography. Critics point out, however, that such experiments are inherently artificial, and that the results are not particularly significant. Even those conducting the experiments concede that their results are not readily transferable from the laboratory to the real world, where a wealth of other stimuli and inhibitions also affect social behaviour.

Not all studies of the effects of pornography inquire into its negative consequences. Some subscribe to the so-called "catharsis" theory - that pornography can act as a "safety-valve" of sorts, allowing its consumers to satisfy aggressive impulses in a non-violent way. The catharsis theory is as unprovable as the theory that pornography induces aggression, and some of the attempts to find substantive proof in the experience of countries which have liberalized obscenity laws have been discredited.

Some contend that the absence of conclusive scientific proof of a direct causal link between pornography and violence should not deter action to suppress such material; because of the nature of the phenomenon and its social context, such "proof" is next to impossible. According to this view, the self-evident fact that pornography contributes negatively to societal perceptions of women and sexuality is sufficient justification for its suppression. Opponents of this view contend that society should impose limitations on expression only where there is demonstrable proof of actual harm, and that, in any event, present legal sanctions, possibly slightly modified, deal adequately with the problem.

The report of the Special Committee on Pornography and Prostitution (the Fraser Committee), released in April 1985, made several significant findings on pornography in Canada. The Committee declined to give an explicit definition of what it considered "pornography," principally because there is no accepted definition in the community at large. It acknowledged the validity of the idea that pornography should be distinguished from erotica, and agreed that, although it is violent pornography that is of most concern, to some extent there is a continuum from apparently mild sexually offensive material to violent material.

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Pornographic material was found to be almost exclusively imported into the country, and to be more widely available in 1985 than 15 years earlier, although this conclusion seemed to depend "not on concise and comprehensive statistics, but on the piecing together of some statistics with indications, trends and general observations." Moreover, the Committee could not determine with any precision whether more people were actually using pornographic materials than before. It concluded:

> The research which has been conducted on magazines and videos does not confirm the overwhelmingly awful picture presented by some groups and individuals in their briefs to the Committee. ... [T]he view that large amounts of violent pornography or child pornography are being consumed is not substantiated by the research.

The Committee strongly suggested that pornography represents and nourishes attitudes and activities inimical to the equality of men and women and that it presents demeaning images as normal and commendable, so that it perpetrates "lies about aspects of women's humanity and denies the validity of their aspirations to be treated as full and equal citizens."

B. The Present Law

The principal existing sanction against pornography is found in the criminal law. Section 163 of the *Criminal Code* creates a number of offences in relation to the fabrication and distribution of "obscene" publications, or to possessing them for the purpose of distribution. It is also an offence to mail obscene matter, or to give an "immoral, indecent or obscene" theatrical performance. These offences may be punished on summary conviction or by indictment, with up to two years' imprisonment where the latter course is chosen. There is also provision for the seizure and forfeiture of obscene materials.

Central to these prohibitions is the elaboration of what is obscene in section 163(8):

> For the purposes of this Act, any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of

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> the following subjects, namely, crime, horror, cruelty and violence, shall be deemed to be obscene.

Whether there is "undue" exploitation is almost invariably determined by reference to community standards; that is, if a dominant characteristic is the exploitation of sex or of sex and any other enumerated quality, the trier of fact must determine the community standard of tolerance. Would the community tolerate the presentation, publication or distribution of the material as presented or published? If not, the material is deemed obscene. As the Supreme Court of Canada pointed out in the *Butler* case, the community standards test is concerned not with what Canadians would not tolerate being exposed to themselves, but with what they would not tolerate other Canadians being exposed to.

It should also be noted that crime, horror, cruelty, and violence by themselves are not obscene; it is only when they are portrayed in conjunction with sex that obscenity exists for legal purposes.

The obscenity standard is flexible - it responds to shifts in public acceptance of explicit material. Notwithstanding the theory that it is also national in application, there is potential for considerable variation, since the criminal law is administered by the provinces, which may set different prosecution standards. Finally, the obscenity standard is today quite "liberal." In media such as magazines or films, where there is little likelihood that those unwilling to view the material will be exposed to it, there is considerable leeway; in other, less discretionary, forms of expression, such as television, tolerance is lower.

Besides the criminal sanction, there is little else in federal law which purports to control sexually explicit or violent material. Under the *Customs Tariff*, customs officials were, until recent amendments, empowered to forbid entry into Canada of material of an "immoral or indecent" character, as determined by reference to community standards; the scope of those words was wider than that of "obscenity." Thus, a broader range of materials could be kept out of the country by administrative action than by criminal prosecution. On 14 March 1985, however, the Federal Court of Appeal found that that the provision of Schedule C of the *Customs Tariff* which allowed for the prohibition of the

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importation of "immoral or indecent" material was too vague to be compatible with the guarantee of freedom of expression in the *Charter of Rights and Freedoms* and, therefore, was of no force or effect. The *Customs Tariff* was subsequently amended to change the reference in the Schedule to materials "deemed to be obscene" under subsection 163(8) of the Code, or found to be hate propaganda under section 320(8).

The provinces have a relatively limited role in the control of pornography. Since the enactment of criminal legislation is beyond provincial competence, direct prohibition by regulation is not possible. Such regulation may, however, incidentally deal with, or complement, obscenity laws. Such is the case with the censorship and classification of films by provincial boards, the constitutionality of which was vindicated by the Supreme Court of Canada in 1978. The power of such boards to order deletions from motion pictures, or to prohibit exhibition entirely, has been put in doubt by a 1984 decision of the Ontario Court of Appeal. The Court held that the absence of specific guidelines concerning censorship rendered the power of the Ontario Censor Board (now the Ontario Film Review Board) an unreasonable limitation on freedom of expression under the *Charter of Rights and Freedoms*. It remains to be seen whether it is possible to formulate guidelines which satisfy all constitutional requirements, with respect to both the Charter and the federal-provincial division of powers.

Beyond regulation of film, provincial involvement in this area is limited, principally due to the constitutional constraints. Municipalities, employing powers derived from the provinces, can regulate the pornography industry by prescribing how such material is to be displayed, or through licensing and zoning restrictions, but this control must not infringe on criminal jurisdiction. This limitation on provincial competence was emphasized in October 1984 by a decision of the Ontario Divisional Court dealing with a provision of that province's *Municipal Act* (and particularly a by-law of the municipality of Toronto) which would have allowed the regulation of the sale of erotic magazines. The provision was struck down on the ground that the by-law affected public morality - something that can be dealt with only by the federal criminal power.

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C. Proposals for Change

1. The Obscenity Standard

The criminal prohibitions of obscenity, with their emphasis on sexual explicitness, are viewed by many as inadequate. Furthermore, many do not find the community standards test to be particularly useful - if pornography is in fact harmful in some way, an objective standard is required, rather than a mere subjective assessment of what the community will not tolerate.

In 1984 the Liberal government proposed a new definition of obscenity which would have taken into account some of these criticisms. It would have read as follows:

> For the purposes of this Act, any matter or thing is obscene where a dominant characteristic of the matter or thing is the undue exploitation of any one or more of the following subjects, namely, sex, violence, crime, horror or cruelty, through degrading representations of a male or female person or in any other manner.

This proposal would have effected two major changes. First, it would have made it quite clear that the definition would apply to all "matters or things" and not merely publications, thus removing a persistent ambiguity. Second, it would have severed the link between sex and cruelty, horror or violence now necessary for material to be deemed obscene.

The proposal would have retained the requirement of "undue exploitation," however, and thus the community standards test would still have applied. The suggested addition of a reference to degradation would have added little to the existing sanction; it is quite within the present power of the courts to find undue exploitation arising from circumstances of degradation.

A different approach to re-definition has been proposed by some feminist groups. This would not rely on an assessment of the community standard of toleration at all, but rather on a purportedly objective determination of whether material can be taken to express

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approval of the behaviour which it depicts. One version, which has been proposed by the National Association of Women and the Law would replace the word "obscenity" with "pornography," which would be defined as:

> A presentation or representation whether live, simulated, verbal, pictorial, filmed, video-taped or otherwise represented, of sexual behaviour in which one or more participants are coerced overtly, or implicitly, into participation; or are injured or abused physically or psychologically; or in which an imbalance of power is obvious, or implied by virtue of the immature age of any participant or by contextual aspects of the presentation, and in which such behaviour can be taken to be advocated or endorsed.

The clear basis of the proposal is that any depiction of sexual activity beyond an ideal of mutual consent is harmful and should be suppressed. Nevertheless, the potential difficulties with such a definition, in the context of enforcement of the criminal law, would be significant. Many of the terms used are extremely vague, and would require the courts to analyze the intentions of those who make the representations.

The Fraser Committee proposed a thorough revision of the criminal law in relation to obscenity which would have gone considerably farther than the 1984 government proposals, but would have avoided the subjectivity inherent in some feminist proposals. Suggested revisions were based on the view that two "harms" flow from pornography: harm to those involuntarily subjected to it, and the broader social harm resulting from the undermining of the right to equality.

The most notable aspect of these proposals was the jettisoning of the "community standards" test. It was intended that pornography would be subject to an assessment based not on "taste," but on more objective grounds, although the defences of scientific or educational purpose, or of artistic merit with respect to sexually violent or degrading pornography would continue to require a large element of subjective analysis. Furthermore, sexual explicitness alone would not be a sufficient ground for application of the criminal sanction. Some may still question, however, whether it would in fact be appropriate to permit in this way any sexual depiction, however explicit, so long as it was not violent, did not involve children, and was not indiscriminately open to the public.

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The Committee was of the opinion that its proposals were constitutional: while they might infringe upon freedom of expression, the Charter allows freedom to be subject to reasonable limits. In the Committee's view, such limits could be justified on the grounds that pornography may encourage inequality for certain elements of society.

2. Pornography as a Human Rights Issue, and as Hate Literature

The Fraser Committee took the position that new ways of seeking redress for the social harm caused by pornography should be explored. One of these was the inclusion in human rights legislation of measures intended to reduce exposure to pornography in the workplace, stores and other facilities. It was also suggested that consideration be given to the provision of a civil right of action in respect of the promotion of hatred through pornography. Finally, the hate propaganda provisions of the *Criminal Code* could be amended to include sex, age, and mental or physical disability as attributes of "identifiable groups" protected by those sections. The inclusion of "sex" would presumably allow for the prosecution of a distributor or maker of material which promotes hatred of either sex.

Whether amendments such as these would have anything other than symbolic significance is open to question. The intention to promote hatred according to the present provisions of the *Criminal Code* has proved very difficult to establish; this would probably also be the case if the provisions were extended to include pornographic material.

3. Child Pornography

Child pornography is generally acknowledged to raise some issues which do not apply to pornography dealing exclusively with adults. Those issues have to do with the participation of children in the production of such material, and their exposure to it. It is assumed that adults may choose to be involved in pornographic productions or to view them, while children are deemed incapable of giving informed consent to such activity. Accordingly, it is argued by some that the use of children should be outlawed, and that any sexually explicit display involving children should be deemed obscene.

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A special committee appointed by the Ministers of Health and Justice, the Committee on Sexual Offences against Children and Youths (the Badgley Committee), issued its report in August 1984. Part of its mandate had to do with the use of children in the production of pornography, and their access to such material. The Committee found that there was no evidence to support claims that child pornography had reached "epidemic" proportions in Canada, as some had claimed. What child pornography there is is imported and constitutes a small proportion of all pornography entering Canada. There is a good deal of "pseudo-child pornography" - pornography that uses adults who appear to be children - entering the country, however, and this may appeal to the same tastes and evoke the same responses as material actually using children. The Committee urged a concerted effort to strengthen the processes whereby the importation of such material could be prevented.

As for domestically-produced child pornography, the Badgley Committee found that it existed in an "informal and fragmented" system of private production, primarily undertaken to serve the sexual gratification of those involved. It also found that such production almost invariably involves the sexual abuse of the children used, and that new communications technology holds the potential for much more production. Accordingly, the Committee recommended that it be made an offence to use children in the production, manufacture, sale or distribution of, and to possess visual representations of "explicit sexual conduct" of persons under 18. All except the possession offence would be indictable, punishable by up to 10 years' imprisonment; the possession offence would be punishable on summary conviction.

The Badgley Committee also found that the existing laws governing restrictions on children's access to pornography were inadequate. The criminal obscenity law does not specifically deal with restricting access, and provincial and municipal laws are unevenly applied, or non-existent. The Committee suggested a summary conviction offence of knowingly selling, displaying or offering to sell "visual pornographic materials" to persons under the age of 16.

The Fraser Committee's 1985 report set out its recommendations with respect to children and pornography separately, to

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emphasize the special treatment children should receive. Perpetrators of child pornography would be subject to the severest punishment. It would also be an offence to "induce, incite, or coerce" a person under 18 to participate in any representation of explicit sexual conduct. Significantly, the Committee also recommended an offence, punishable on summary conviction, of being in possession of child pornography. Possession of adult pornography would be an offence only where that possession was for the purposes of sale or distribution. The Committee acknowledged that this was a severe recommendation, but justified it on the ground that it was necessary in order to deter the production of child pornography.

4. New Developments

Pornography remains a controversial subject. There is dissatisfaction with the existing provisions, although no consensus about what should replace them. The most recent legislative attempts to deal with pornography did not proceed beyond first reading, and no further attempts have been made since 1988.

There have been a number of recent court decisions involving the obscenity provisions of the *Criminal Code*. In Ontario, in what is believed to have set a Canadian precedent, a seller of pornorgraphy was jailed in August 1990 after being convicted of 12 charges relating to his magazine distribution business. In Ottawa, a record company and record distributor were charged with distribution of obscene material and possession of such material, in relation to two records by a British Columbia punk band, Dayglo Abortions. The defendants were acquitted after a trial that lasted several days. In July 1991, a London, Ontario, bookstore owner was found guilty of selling obscene material after police seized copies of an album by the controversial U.S. rap group 2 Live Crew; the decision is being appealed.

In September 1991, Toronto police seized sexually explicit videotapes as being obscene. Two people were charged with various criminal counts of owning and distributing obscene material, notwithstanding the fact that the tapes had been viewed and cleared by Ontario's Film Review Board. This incident highlights the differences between federal and provincial laws. It also illustrates the problems of enforcement of the

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obscenity provisions when some provinces adopt a more lenient attitude than others and the difficulties and unpredictability inherent in the "community standards" test.

The Supreme Court of Canada handed down its decision in the case of *R.* v. *Butler* case on 27 February 1992. The Court unanimously upheld the constitutionality of the obscenity provisions of the *Criminal Code*, holding that, although the prohibition against pornography contravened the freedom of expression guarantee in section 2(b) of the *Charter of Rights and Freedoms*, it could be justified under section 1 of the Charter as a reasonable limit prescribed by law. Mr. Justice Sopinka, writing on behalf of the Court, said that, while a direct link between obscenity and harm to society may be difficult, if not impossible, to establish, there was nevertheless sufficient evidence that depictions of degrading and dehumanizing sex harm society, and, in particular, adversely affect attitudes towards women. He held that the overriding objective of the law was not moral disapprobation but the avoidance of harm to society, and that the threat to equality resulting from exposure to certain types of violent and degrading material cannot be ignored.

In the course of his reasons, Mr. Justice Sopinka provided some guidance in applying the various tests to determine what constitutes undue exploitation: the community standards test, the degradation or dehumanization test, and the internal necessities test or artistic defence. He also divided pornography into three categories: (1) explicit sex with violence; (2) explicit sex without violence but that is degrading or dehumanizing; and (3) explicit sex without violence that is neither degrading nor dehumanizing. He felt that the first two categories would almost always constitute undue exploitation of sex, but the third category would generally be tolerated. Two of the other judges, however, disagreed, arguing that not only the <u>content</u> but also the <u>representation</u> can be objectionable.

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PARLIAMENTARY ACTION

A. Justice Committee Report, 22 March 1978

The House of Commons Standing Committee on Justice and Legal Affairs issued a report after conducting a study of the subject matter of several Private Members' bills dealing with pornography. The report made a number of recommendations, among them a new definition of obscenity which would have included "degradation," and which would also have included reference to materials involving children.

B. Bill C-51, First Reading 1 May 1978
(3rd Session, 30th Parliament)

This omnibus *Criminal Code* amendment bill included a redefinition of obscenity similar to the Justice Committee's recommendation. It died on the Order Paper, as did identical Bill C-21, introduced in November 1978.

C. Bill C-19, First Reading 7 February 1984
(2nd Session, 32nd Parliament)

This omnibus *Criminal Code* amendment bill included a new definition of obscenity which no longer required that obscene material have a sexual element; the bill also specified degrading representations as a means of "undue exploitation" and substituted "matter or thing" for "publication" in the definition. It provided for forfeiture of obscene material, and would have placed limitations on prosecutions of materials passed by provincial classification boards. The bill died on the Order Paper in July 1984.

D. Bill C-38, First Reading 1 April 1985
(1st Session, 33rd Parliament)

This bill, which received Royal Assent on 3 April 1985, amended the *Customs Tariff* to incorporate the obscenity standard in the *Criminal Code* by reference. It was necessitated by a court decision striking down the previous prohibition on the importation of "immoral or

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indecent" material as contrary to the *Charter of Rights and Freedoms*. Originally slated to expire on 30 June 1987, the tariff item was extended on an annual basis until 1989, when it was made permanent. It is now Tariff Item 9956 of Schedule VII to the *Customs Tariff*.

E. Bill C-114, First Reading 10 June 1986
(1st Session, 33rd Parliament)

This bill would have repealed the obscenity provisions in the Code (and in the *Customs Tariff)*, replacing them with strict and more objective provisions dealing with various types of pornography. It died on the Order Paper in August 1986.

F. Bill C-54, First Reading 4 May 1987
(2nd Session, 33rd Parliament)

Bill C-54 constituted a revision of Bill C-114, with some relatively minor changes and a few important additions.

The bill proposed amendments to the *Criminal Code* and the *Customs Tariff* that were similar in structure to the recommendations of the Fraser Committee, with some significant differences. There would have been a series of "tiered" offences, the severity of punishment depending on the nature of the material in issue. The offences would have applied to visual matter - that is, child pornography, pornography showing physical harm in a sexual context, sexually violent pornography, "degrading" pornography, and what might be termed "simple" pornography. Each type of pornography would have had a specific statutory definition, and "dealing" in any would be an offence. All, except child pornography and pornography showing physical harm, would have been subject to a defence based on artistic merit or scientific, medical or educational purpose. Perhaps the most significant difference between the bill and the recommendations of the Fraser Report was with respect to "simple pornography" - i.e., the depiction of non-violent, non-degrading sex acts involving consenting people. The Fraser Committee would have placed restrictions only on the display of such material; the bill (subject to the defences just noted)

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would presumptively have prohibited manufacture, distribution, sale and any other dealing in such material.

Child pornography would have been treated harshly, with the use of persons under the age of 18 in the production of sexually explicit material severely punished. Simple possession (i.e., not for commercial or distribution purposes) would also have been made a summary conviction offence. In a new departure, dealing in matter or "commercial communication" that "incites, promotes, advocates or encourages" any of the conduct covered by the definition of the various types of pornography (except the conduct involved in simple pornography) would also have been made a severely punished offence.

The bill would have incorporated the new pornography standards into offences dealing with theatrical performances, with the corresponding defences, and into that provision of the *Customs Tariff* dealing with prohibited imports. Finally, following a recommendation of the Fraser Report, "sex" would have been included in the definition of "identifiable group" in the hate propaganda provisions of the *Criminal Code*.

Bill C-54 was very controversial. Although some efforts were made to limit the scope of its proposed restrictions on pornography, some contend that the changes were merely cosmetic. It was argued that, in limiting defences as it did, and in proposing to apply the full force of the law only to material which was sexually explicit and not to that which was violent or degrading, the bill was an overreaction, and a threat to civil liberties. There remains, however, a significant constituency that wishes to see even greater controls on explicit materials. It may not be possible to reconcile these views in legislation.

Bill C-54 died on the Order Paper when Parliament was dissolved on 1 October 1988.

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CHRONOLOGY

1959 - The *Criminal Code* was amended to include a statutory definition of obscenity based on "undue exploitation," instead of the common law concept which involved assessment of whether material had a tendency to "deprave" or "corrupt."

19 January 1978 - The Supreme Court of Canada, in the *McNeil* case, upheld the constitutionality of provincial film censorship and classification boards.

22 March 1978 - The House of Commons Justice Committee issued its report on pornography.

1 May 1978 - Bill C-51, which would have redefined obscenity, was introduced in the House of Commons.

12 January 1981 - Bill C-53, which contained amendments to the *Criminal Code* on child pornography, was introduced in the House of Commons.

16 February 1981 - The Badgley Committee was formed, part of its mandate being to inquire into child pornography.

17 April 1982 - The *Charter of Rights and Freedoms,* which contains a guarantee of freedom of expression, was proclaimed in force.

31 March 1983 - The Ontario Divisional Court ruled, based on the Charter, that the powers of the Ontario Censor Board to order deletions from films, or to ban films, must be supported by explicitly enunciated guidelines, which do not abridge freedom of expression. The Court of Appeal later upheld this decision.

23 June 1983 - The Minister of Justice announced the formation of a special committee to study prostitution and pornography (The "Fraser Committee").

7 February 1984 - Bill C-19, which contained several amendments to the obscenity provisions of the *Criminal Code,* was given first reading in the House of Commons.

22 August 1984 - The Badgley Committee issued its report, recommending new offences having to do with the production of child pornography and the sale of pornography to children.

31 October 1984 - The Ontario Divisional Court struck down a Toronto by-law and a provision of the Ontario *Municipal Act*

which purported to regulate the sale of erotic magazines.

14 March 1985 - The Federal Court of Appeal ruled that that part of the *Customs Tariff* which forbade the importation of "immoral or indecent" material was constitutionally invalid. In response, the Act was amended by R.S.C. 1985 (1st Supp.), chap. 21, to incorporate the obscenity standard, by reference. Subsequently, the tariff item was extended annually until 1989, when it became permanent.

23 April 1985 - The Fraser Committee's report on pornography and prostitution was released, recommending extensive revision of the law.

10 June 1986 - The government introduced Bill C-114 embodying proposals for new laws on pornography. This bill died on the Order Paper when Parliament was prorogued in August 1986.

4 May 1987 - The government introduced Bill C-54, a revision of the proposals on pornography in Bill C-114. This bill died on the Order Paper when Parliament was dissolved in October 1988.

27 February 1992 - The Supreme Court of Canada upheld the constitutionality of the obscenity provisions in the *Criminal Code*, in *R. v. Butler*.

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